

ATTORNEY'S DOCKET NUMBER: 2003882-0016 (P35633US-M)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bipin Chandra Muljibhai Patel Examiner: Perreira, Melissa Jean
Serial No.: 10/500,495 Art Unit: 1618
Filing Date: April 1, 2005 (**June 28, 2004**) Conf. No.: 4500
Title: DELIVERY OF NEUTRON CAPTURE ELEMENTS FOR NEUTRON
 CAPTURE THERAPY

Via Electronic Filing on EFS Web

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the Restriction Requirement mailed November 25, 2008 in the above-referenced application, Applicant requests consideration of the following Remarks. The deadline for responding to the Office Action without fees was December 25, 2008. A one-month extension of time from December 25, 2008, up to and including January 25, 2009, is hereby respectfully requested, and the extension fee of \$65.00 under 37 C.F.R. § 1.17(a) for a small entity is being paid via the U.S. Patent and Trademark Office's Electronic Filing System's credit card payment option. Since January 25, 2009 falls on a Sunday, the next succeeding day which is not a Saturday, Sunday, or Federal holiday (*i.e.* Monday, January 26, 2009) shall be considered timely under 37 C.F.R. § 1.7. Applicant thus submits that the present Response is timely submitted on Monday, January 26, 2009.

Applicant elects Group I (claims 1-29 and 50), drawn to a water insoluble nanoparticle. The Examiner has requested additional species elections, of which Applicant elects the following species for initiation of the Examiner's search:

- 1) Boron as the neutron capture element;
- 2) Boron-containing glass or glass ceramic as the neutron capture element form; and
- 3) Polyvinylpyrrolidone (PVP) as the biocompatible outer layer.

Claims 1-29 and 50 read on the elected species. Applicant notes that these elections are *species* elections. As noted by the Examiner, upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim (see 37 C.F.R. § 1.141).

Applicant also continues to reserve the right to request rejoinder of or file divisional or continuation applications drawn to withdrawn claims 30-49 and 51-53 (*i.e.*, claims corresponding to the non-elected Groups). Applicant understands that, if the elected product claims of Group I are found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. Applicant respectfully requests that the Examiner confirm this understanding.

Applicant would like to thank the Examiner for her time and consideration of this case. If a telephone conversation would help clarify any issues, or help expedite prosecution of this case, Applicant invites the Examiner to contact the undersigned at (617) 248-4793.

Additionally, please charge any fees that may be required or credit any overpayment to our Deposit Account 03-1721.

Respectfully Submitted,
CHOATE, HALL & STEWART LLP

Date: January 26, 2009

/Charles E. Lyon, D.Phil./

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